

Application No.: 10/679,112

Docket No.: ERK/001

Concerning the German application DE 102 08 678, Applicants submit that, pursuant to 37 C.F.R. § 1.98(a)(3)(i), Applicants are required to provide “[a] concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language.”

Also, pursuant to 37 C.F.R. § 1.98(a)(3)(ii), “[a] copy of the translation if a written English-language translation of a non-English-language document, or portion thereof,” is only required when such a copy “is within the possession, custody, or control of, or is readily available to any individual designated in § 1.56(c).”

In the instant case, since Applicants do not have possession, custody, or control of a readily available copy of the English translation of the cited German application, Applicants do not have a duty to secure such a translation in order for the cited IDS reference to be considered by the Examiner. Applicants’ understanding about the relevance of this citation, as explained in the February 6, 2006 submission, is that this is one of the references cited in an International Search Report (ISR) in a related PCT application. Therefore, Applicants submit that Examiner Mitra should have initialed the citation DE 102 08 678 based on the available information.

Nevertheless, to help the Examiner to better understand the reference, Applicants provide herewith the English translation of the PCT application PCT/EP02/02371, filed on March 5, 2002, and later published as WO 02/085965A1 on October 31, 2002 (see the ISR copy submitted on February 6, 2006, listing WO 02/085965A1 as being related to DE 102 08 678):

“The invention relates to flexible, fine-pored sponges, equipped with liquids, on the basis of a polyurethane foam. The inventive sponges are used in the cosmetic or dermatological treatment of the skin, hair, mucosa or cutaneous appendages.”

PCT application PCT/EP02/02371 was filed 5 days after the filing of the German application DE 102 08 678, and claims priority to the German application DE 102 08 678.

Applicants respectfully request the Examiner to consider and initial all the properly submitted IDS references, including the four crossed-out references mentioned above.

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Applicants also note in public PAIR that the Office has corrected three typographic mistakes in the IDS filed on February 6, 2006, namely changing U.S. Pat. No. "5,961,483" to Chien *et al.* to "5,961,482"; changing U.S. Pat. No. "6,235,381" to Tapper to "6,238,381"; and changing U.S. Patent Application Publication "2002/197262" to Hasan *et al.* to "2002/0197262." These mistakes have also been corrected in the attached corrected SB/08 form.

Applicants believe no fee is due with the filing of this paper under 37 C.F.R. § 1.97(f). If any fee is due, however, please charge our Deposit Account No. 18-1945, from which the undersigned is authorized to draw under Order No. ERK/001.

Dated: July 8, 2008

Respectfully submitted,

By 

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